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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/685,361 10/10/00 RUSCH

A GR 98 P 1507

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MM91/1025

LERNER AND GREENBERG, P.A.  
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EXAMINER

GURLEY, J.

ART UNIT

PAPER NUMBER

2812

DATE MAILED:

10/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/685,361</b>	Applicant(s) <b>Rusch et al.</b>
	Examiner <b>Lynne Gurley</b>	Art Unit <b>2812</b>
		
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>one</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p>		
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
<p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Oct 10, 2000</u></p>		
<p>2a) <input type="checkbox"/> This action is <b>FINAL</b>.      2b) <input checked="" type="checkbox"/> This action is non-final.</p>		
<p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
<b>Disposition of Claims</b>		
<p>4) <input checked="" type="checkbox"/> Claim(s) <u>1 and 2</u> is/are pending in the application.</p>		
<p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p>		
<p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p>		
<p>6) <input type="checkbox"/> Claim(s) _____ is/are rejected.</p>		
<p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p>		
<p>8) <input checked="" type="checkbox"/> Claims <u>1 and 2</u> are subject to restriction and/or election requirement.</p>		
<b>Application Papers</b>		
<p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p>		
<p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p>		
<p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p>		
<p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<b>Priority under 35 U.S.C. § 119</b>		
<p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p>		
<p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p>		
<p>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</p>		
<p>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p>		
<p>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
<b>Attachment(s)</b>		
<p>15) <input type="checkbox"/> Notice of References Cited (PTO-892)      18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p>		
<p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)      19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p>		
<p>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____      20) <input type="checkbox"/> Other: _____</p>		

**DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claim 2, drawn to a method of making a semiconductor device, classified in class 438, subclass 238.
  - II. Claim 1, drawn to a semiconductor device, classified in class 257, subclass 296+.
2. The inventions are distinct, each from the other because of the following reasons:  
Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to make another and materially different product, ie. a product which does not require that the first-conductivity-type dopant decreases the contact resistance and that the second conductivity-type dopant increases the contact resistance.
3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
4. A telephone call was made to Werner H. Stemer on 10/18/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne A. Gurley whose telephone number is (703) 305-3474. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John F. Niebling, can be reached on (703) 308-3325. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
LG

October 18, 2001

John F. Niebling  
Supervisory Patent Examiner  
Technology Center 2800